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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/606,503

06/28/2000

John T. Chapman

CISCP145/1945

6276

22434

7590

11/29/2005

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EXAMINER

HARPER, KEVIN C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/606,503

Applicant(s)

CHAPMAN ET AL.

Examiner

Kevin C. Harper

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 84-131 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 84-86, 88-91, 93, 94, 101-105, 107, 108, 115-119, 121-125 and 127-130 is/are rejected.
- 7) ☒ Claim(s) 87, 92, 95-100, 106, 109-114, 120, 126 and 131 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Arguments***

Applicant's arguments, filed September 19, 2005 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Fijolek.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 84-86, 88-91, 93-94, 101-105, 107-108, 115-119, 121-125 and 127-130 are rejected under 35 U.S.C. 102(e) as being anticipated by Fijolek et al. (US 6,510,162).

1. Regarding claims 84, 88-90, 101-104, 115-118, 121-122 and 127, Fijolek discloses a method for facilitating communications between a network node (fig. 6, item 16) and a head end of an access network (items 25 and 12). The nodes communicate using upstream and downstream channels each having an identifier (fig. 7, step 152; col. 19, lines 1-10; note: a downstream channel has a designation based on its frequency). The head end performs a downstream channel change operation (col. 18, lines 54-56; col. 17, lines 2-4 and 32-35; col. 18, lines 3-10; note: some cable modems remain on channel 1 and other cable modems are changed to channel 10 or 20). Further regarding claims 101 and 127, the system includes a processor, an interface and a memory (fig. 5, item 25). Further regarding claim 115, the method is operated by a computer code (col. 12, lines 10-18; col. 18, lines 30-35).
2. Regarding claim 85, the channels are associated with frequency (col. 2, lines 43-50; col. 19, lines 5-10).

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3. Regarding claims 86, 125 and 130, load balancing is performed (col. 17, lines 32-34).
4. Regarding claims 91, 105 and 119, the head end receives a response to the dynamic channel change request (col. 17, lines 8-9; col. 9, line 10; col. 11, lines 43-60; col. 12, lines 5-7; note: the cable modem is reinitialized and sends data to the head end).
5. Regarding claims 93, 107, 123 and 128, the network is a wireless network (col. 4, lines 46-48).
6. Regarding claims 94, 108, 124 and 129, the network is a cable network (fig. 5).

#### ***Allowable Subject Matter***

7. Claims 87, 92, 95-100, 106, 109-114, 120, 126 and 131 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

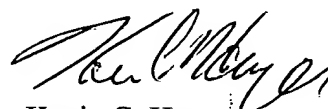
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 571-272-3174. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see [portal.uspto.gov](http://portal.uspto.gov). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

November 28, 2005